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ALEXANDER L. STEVAS,
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No. 84-1911

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1984

Linda Wheeler,

Petitioner

v.

Mental Health and Mental Retardation Authority of Harris County, et al,

Respondents

Respondents' Reply Brief to Petition for Writ of Certiorari

P. J. Murphey Harmon
3300 Allied Bank Plaza
Houston, Texas 77002
Telephone: (713) 651-1300

Attorneys for Respondents

Of Counsel:

Reynolds, Allen & Cook
3300 Allied Bank Plaza
Houston, Texas 77002

TABLE OF CONTENTS

Page

TABLE OF CONTENTS i

TABLE OF AUTHORITIES ii

PRELIMINARY MATTERS 1

SUMMARY OF ARGUMENT 2

ARGUMENT 2

TABLE OF AUTHORITIES

Page

Cases

Cleveland Board of Education v. Loudermill, ____ U.S. ____, 84 L.Ed.2d 494 (1985) 2, 3, 4, 5, 6

Heflin v. U. S., 79 S.Ct. 451, 358 U.S. 415, 3 L.Ed.2d 407 (1959) 3

Hyde v. Shine, 25 S.Ct. 760, 199 U.S. 62, 50 L.Ed. 90 (1905).....2

Jarecki v. G. D. Searle & Co., 81 S.Ct. 1579, 367 U.S. 303, 6 L.Ed.2d 859 (1961) 3

Wheeler v. Mental Health and Mental Retardation Auth., 752 F.2d 1063, 1071 (5th Cir. 1985) 4, 5

Statutes

28 U.S.C. §1254(1).....1

PRELIMINARY MATTERS

Pursuant to Rules 22 and 34 of the Rules of the Supreme Court, the Respondents would show that the Petitioner has accurately stated or described the question presented, the parties to the proceedings, the opinion below, the jurisdictional basis asserted, the constitutional provision involved and the nature of the case.

Respondents do not believe that good grounds exist for the exercise of this Court's jurisdiction pursuant to 28 U.S.C. §1254(1) and present this brief in opposition to the Petition for Writ of Certiorari filed by Petitioner.

SUMMARY OF ARGUMENT

Petitioner seeks to invoke the certiorari jurisdiction of this Court on the sole basis that the opinion of the United States Court of Appeals in this case is in conflict with the decision of this Court in the recent case of Cleveland Board of Education v. Loudermill, ____ U.S. ____, 84 L.Ed.2d 494 (1985). Finding no conflict between these decisions, the Respondents do not believe that the petitioner has shown good grounds for the exercise of jurisdiction by this Court.

ARGUMENT

The decision to grant or deny a petition for writ of ctiorari rests within the sound discretion of the Court. Hyde v. Shine, 25 S.Ct. 760, 199 U.S. 62, 50 L.Ed. 90 (1905). However, this Court typically exercises such jurisdiction when presented

with an apparent conflict between decisions of different Circuit Courts of Appeals, Jarecki v. G. D. Searle & Co., 81 S.Ct. 1579, 367 U.S. 303, 6 L.Ed.2d 859 (1961), or when presented with an apparent conflict between a decision of this Court and a decision of one of the Courts of Appeals. Heflin v. U. S., 79 S.Ct. 451, 358 U.S. 415, 3 L.Ed.2d 407 (1959).

The Petitioner clearly seeks to invoke the latter jurisdictional basis by suggesting that the opinion of the Fifth Circuit in this case is in conflict with this court's decision in Cleveland Board of Education v. Loudermill, supra. The Petitioner argues that the right to a pretermination hearing given the tenured public employee in Loudermill has been taken away from the Petitioner by the Fifth Circuit as a result of its decision in this case.